

REBECCA ELAINE )  
GATES-COLBERT, )  
 )  
Movant, )  
 )  
v. ) No. 1:12CV128 SNLJ  
 )  
UNITED STATES OF AMERICA, )  
 )  
Respondent. )

This matter is before the Court on Rebecca Gates-Colbert’s motion to vacate under 28 U.S.C. § 2255. Movant is challenging her 2010 conviction for felon in possession of a firearm, United States v. Gates-Colbert, 1:10CR39 SNLJ (E.D. Mo.). Movant previously brought a § 2255 motion challenging the conviction, and the Court dismissed the motion as time-barred, Gates-Colbert v. United States, 1:11CV208 SNLJ (E.D. Mo.). As a result, the instant motion is successive and will be summarily dismissed pursuant to Rule 4 of the Rules Governing Habeas cases. See 28 U.S.C. § 2244(b); Diaz-Diaz v. United States, 297 Fed. Appx. 574, 575, 2008 WL 4746862, \*1 (8th Cir. Oct. 29, 2008) (per curiam), citing Villaneuva v. United States, 346 F.3d 55, 61 (2d Cir. 2003) (“a habeas or § 2255 petition that is properly dismissed as time-barred . . . constitutes an adjudication on the merits for successive

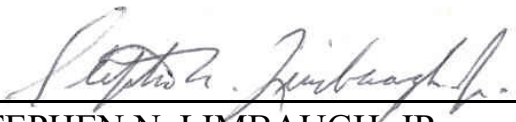
purposes”) and Harvey v. Horan, 278 F.3d 370, 380 (4th Cir. 2002); see also McNabb v. Yates, 576 F.3d 1028, 1030 (9th Cir. 2009) (dismissal of first habeas petition for untimeliness presents “permanent and incurable” bar to federal review of underlying claims because a petitioner will never be able to overcome the statute of limitations bar); Altman v. Benik, 337 F.3d 764, 766 (7th Cir. 2003) (dismissal of untimely habeas petition operates as irremediable defect). Movant must obtain permission from the Eighth Circuit Court of Appeals before she may file a second or successive motion to vacate in this Court.

Accordingly,

**IT IS HEREBY ORDERED** that movant’s motion to vacate pursuant to 28 U.S.C. § 2255 is **DISMISSED**.

**IT IS FURTHER ORDERED** that the Court will not issue a certificate of appealability.

Dated this 17th day of August, 2012.

  
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STEPHEN N. LIMBAUGH, JR.  
UNITED STATES DISTRICT JUDGE